

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FREDERICK BAYNES,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 14-cv-1422-JPG-SCW

**MEMORANDUM AND ORDER**

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 21) of Magistrate Judge Stephen C. Williams recommending that the Court grant the defendant United States’ motion to dismiss for improper venue or, in the alternative, to transfer venue pursuant to 28 U.S.C. § 1404(a) (Doc. 15), and transfer this case to the United States District Court for the Eastern District of Virginia pursuant to 28 U.S.C. § 1406(a).

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

Plaintiff Frederick Baynes did not respond to the defendant’s motion, although he has “replied” to the Report, indicating he never received a copy of the defendant’s motion (Doc. 23). In that “reply,” however, Baynes states that if this case is not in the correct district, he consents to the transfer of this case to the Eastern District of Virginia. The Court construes this “reply” as an objection to the motion and has reviewed the matter *de novo*.

Following this *de novo* review, the Court finds that it is clear, for the reasons stated in Magistrate Judge Williams' Report, that venue is not proper in this district and a transfer to the Eastern District of Virginia pursuant to 28 U.S.C. § 1406(a) is appropriate and agreed to by Baynes. Accordingly, the Court::

- **ADOPTS** the Report in its entirety (Doc. 21);
- **GRANTS** the United States' motion to dismiss for improper venue or, in the alternative, to transfer venue (Doc. 15); and
- **DIRECTS** the Clerk of Court to transfer this case to the United States District Court for the Eastern District of Virginia pursuant to 28 U.S.C. § 1406(a).

**IT IS SO ORDERED.**

**DATED: November 24, 2015**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**